

REMARKS

Claims 1-14 and 27-29 are pending and under consideration and stand rejected under 35 USC § 103. The rejections are respectfully traversed below.

Rejections under 35 USC § 103

On pages 3-7 of the December 20, 2005 Office Action, claims 1-14 and 27-29 were rejected under 35 USC § 103(a) as unpatentable over Waclawsky (US Patent 5,974,457) in view of Ramanathan (US Patent 6,286,047).

In rejecting claim 1, it was alleged that "determining from the possible dependences a normal range of dependence for at least some of the devices and services essentially undisturbed states to train a statistical estimator ... [was disclosed by] Waclawsky, column 4, line 60 through column 5, line 4" (Office Action, page 4, lines 11-14). However, what was cited in cited in Waclawsky states that

comparison is performed by the rules contained in the rule based criteria modules 150. The standards can be predetermined, predefined standards such as average utilization for particular types of traffic such as batch traffic, interactive traffic, voice traffic or video traffic. Another important type of standard is the benchmark data set which is the accumulated history of behavior of traffic on the network.

In other words, what was cited in Waclawsky describes a rule based system and a historical benchmark comparison system, not a statistical estimator.

Furthermore, it was asserted that the limitation in claim 1, "comparing the current activity parameters by the statistical estimator with the normal range of dependence ... [was taught by] Waclawsky, column 5, lines 5-9" (Office Action, page 4, lines 16-18). However, what was cited in cited in Waclawsky states that

rules based criteria modules perform a comparison between information derived from the event vectors in the buffer array 140 and the standards provided by either the predetermined standard values or the benchmark data sets 110, and output inference signals. Those inference signals will be associated with the class of traffic such as batch or interactive or voice or alternately can be classes of traffic.

In other words, what was cited in Waclawsky describes a rule based system that compares standards values from predetermined established benchmarks, not comparisons derived from a statistical estimator.

Nothing was cited or found in Waclawsky and Ramanathan that teaches or suggests a **statistical estimator**. Instead, Waclawsky discloses a rule based system. A rule based system

is not the same as a statistical estimator. Rule based systems are also known as expert systems and consist of a number of manually defined rules representing expert knowledge. In contrast, a statistical estimator, such as a neural network, does not require explicit knowledge of an expert. Rather, the statistical estimator represents the required knowledge after training in implicit form. Thus, by relying on a rule based system, Waclawsky teaches away from a statistical estimator training system.

Furthermore, the Office Action failed to establish a case of *prima facie* obviousness because nothing was cited or found that teaches or suggests that at the time of the invention, one of ordinary skill in the art would have been motivated to combine the teachings of Ramanathan with the disclosure of Waclawsky or to modify Waclawsky or Ramanathan to derive the missing limitations admittedly not found in Waclawsky. The Office Action merely concluded that Waclawsky and Ramanathan in some "combination satisfies the need [of] a network monitoring system that can generate models of services based on dependencies among the services and service elements. See Ramanathan, column 3, lines 38-42" (Office Action, page 4, lines, 17-20).

For the above reasons, independent claim 1 distinguishes over the applied art and is in condition for allowance.

Dependent claims 2-14 depend from claim 1. Independent claims 27-29 recite **statistical estimator** limitations in a manner similar to claim 1. Thus, claims 2-14 and 27-29 distinguish over the applied art for the reasons discussed in regard to claim 1.

Request for Examiner Interview

If the rejections are not withdrawn, the Examiner is respectfully requested to contact the undersigned to arrange an Examiner Interview prior to issuance of the next Office Action, to provide an opportunity to discuss where the prior art teaches a statistical estimator and what further limitations might be required to more clearly distinguish the invention over the prior art.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-14 and 27-29 are in condition suitable for allowance. Entry of the Request for Continued Examination along with this Response and reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Serial No.: 10/042,278

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on MAY 22, 2006

STAAS & HALSEY
By: John L. Young
Date: MAY 22, 2006 